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TO RUEHC/SECSTATE WASHDC IMMEDIATE 2586
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RUEHGB/AMEMBASSY BAGHDAD 0263
RUCNDT/USMISSION USUN NEW YORK 0194
RUEAIIA/CIA WASHDC
RHEHNSC/NSC WASHDC

UNCLAS SECTION 01 OF 03 DAMASCUS 005378

SIPDIS

SENSITIVE
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PLEASE PASS TO L/NESA

E.O. 12958: N/A
TAGS: PGOV PREL CASC ASEC SY
SUBJECT: SYRIANS REFUSE TO DEPORT ACCUSED AMCIT MURDERER
MUAZ HAFFAR

¶1. (U) This is an action request, please see paragraph 5.

¶2. (SBU) The Syrian MFA notified us by a dipnote (text included below) received December 2 that the SARG has rejected our request to deport Amcit accused murderer Muaz Haffar (AKA to the Syrians as Omar al-Sawwaf). The dipnote, dated November 21, and issued by the Consular Department at the MFA, stated that the SARG has decided not to hand over Haffar for trial in the United States. Instead, Syrian authorities have decided that he will be tried in a Syrian court. The dipnote stated that the decision "rejecting the extradition" of Haffar, was made by the Criminal Extradition Committee of the Syrian Ministry of Justice on November 9. It stated that this person was a Syrian citizen, wanted by judicial authorities in the U.S. for murder, and that there is no bilateral agreement (extradition treaty) between the SARG and the U.S. Consequently the SARG is refusing to turn Haffar over. It also noted that the Embassy should inform the "petitioning party" to consult with the Syrian court which will conduct the trial, and to forward all the relevant documents and the legal file to the First Attorney General in Damascus, so that the Syrian authorities can proceed against Haffar.

¶3. (SBU) Post received information from working-level police contacts that Haffar had been arrested in Syria in late October 2006 for some type of suspicious behavior unrelated to the murder charges in the U.S. At that time, Post formally requested consular access and Charge separately demanded of our designated MFA channel in the Office of Protocol that the SARG confirm that it had Haffar in custody and respond to our request for consular access. He also noted that the USG wanted the SARG to agree to deliver Haffar to the U.S. law enforcement officials for trial in the U.S. on the murder charges. (Note: We made the initial request for the detention and deportation of Haffar in mid-August 2005, after being notified that he had fled to Syria in late July to avoid facing murder charges in Cook County, Illinois.

We subsequently received a formal request for the extradition of Haffar, which we transmitted the SARG. We note that there is no extradition treaty between Syrian and the U.S.)

¶4. (SBU) Although the Syrian dipnote refers to Haffar throughout as Omar al-Sawwaf, an MFA official in the Office of Protocol, Abdul-Latif al-Sabbagh confirmed to A/DCM that the dipnote response was in fact referring to Muaz Haffar. He was unable to explain why the SARG was using a different name for the accused. (We presume Haffar, with a claim based

on his Syrian mother, applied for Syrian citizenship when he fled here, and changed his name, possibly using his mother's family name, although is unclear from the sparse information the SARG has provided us.) Al-Sabbagh refused to answer A/DCM's other inquiries -- whether we would be given consular access, how we should proceed with the case, and how the Syrians intended to try Haffar -- and requested that the Embassy forward by dipnote any further requests for clarification or information on the case.

¶5. (SBU) ACTION REQUESTED: In order to confront the SARG expeditiously on its refusal to cooperate on the Haffar case, Post proposes that we quickly respond to the MFA Dip Note, requesting an early meeting to 1) express our objections, and 2) seek clarification on how the SARG plans to proceed. We request Department approval for this course of action and provide the following draft language for a dipnote we would like to send ASAP.

PROPOSED TEXT:

-- The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Syrian Arab Republic and has the honor to request the assistance of the Government of the Syrian Arab Republic in the matter detailed below.

-- The Embassy of the United States acknowledges receipt December 1 of the Dipnote from the MFA's Consular Directorate, number 64 (90/118) 13323, dated November 21, 2006, which states that the Syrian government will not turn over Syrian citizen Omar al-Sawwaf and instead will try him in a Syrian court. The Embassy received telephonic clarification from the MFA on December 6 that the references

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to Omar al-Sawwaf in the dipnote are in fact referring to American citizen Muaz Haffar. The Embassy would like to remind the Syrian government that Mr. Haffar is an American citizen and requests consular access to him pursuant to the terms of Article 36 of the Vienna Convention on Consular Access, to which Syria is a signatory.

-- The Embassy would like to note that it does not understand the Syrian government's refusal to turn over Haffar to the proper U.S. authorities, since he is an American citizen, properly charged in a U.S. court with the crime of murder. Haffar fled to Syria to avoid facing these charges. The Embassy provided the Syrian government with a copy of the arrest warrant for Haffar for murder, issued by Circuit Court of Cook County, Illinois, in dipnote 558 of August 10, 2005. The Embassy also requests that the MFA Consular Directorate, and the appropriate Ministry of Justice representatives, meet with the Embassy's Consul to discuss this matter, and in particular to explain how the Syrian government plans to proceed in trying Muaz Haffar in a Syrian court. The Embassy would like to obtain clarification about what the Syrian government means in its dipnote note of November 21 that the petitioning party should consult with the Syrian court that will conduct the trial, "in order to demand its rights and prove its claims." The Embassy would also like to seek clarification about what the Syrian government means in stating that the Embassy should "forward all the documents and hand over the file to the First General Attorney in Damascus in order to activate the general suit against Haffar.

-- The Embassy avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Syrian Arab Republic the assurance of its highest consideration.

END PROPOSED TEXT OF DIPNOTE.

¶6. (U) Translated text of the dipnote from the MFA included below:

Syrian Arab Republic
Ministry of Foreign Affairs
Consular Directorate
No. 64 (90-118) 13323
Date: November 21, 2006

The Ministry of Foreign Affairs of the Syrian Arab Republic presents its compliments to the Embassy of the United States of America and has the honor to furnish the Embassy with Decision No. 98, dated November 9, 2006, of the Criminal Extradition Committee of the Ministry of Justice, which rejects the extradition of Syrian citizen Omar al-Sawwaf and decides to try him in a Syrian court.

The MFA would be grateful to the esteemed Embassy if it advise the petitioning (prosecuting) party to consult the court which will conduct the trial, in order to demand its rights and prove its claims.

Attached: The above-mentioned decision

Syrian Arab Republic
The Ministry of Justice
No. 731-2006
Deputy of the Minister
63 Release 2006

In the name of the Arab people in Syria
Resolution No. 98-2006

Issued by the Criminal Handover Committee in the Ministry of Justice.
The committee consists of the following Messrs.

¶1. Samir Bernbo Assistant to the Minister of Justice
-- Chairman
¶2. Hisham Zaza Head of the Criminal Court in
Damascus --Member
¶3. Mohamed Marwan Alloji First Attorney General in
Damascus -- Member
¶4. Samar Kaziha Report typist

In the wake of reviewing its decision No.-94-2006 which includes the confirmation of detaining the Syrian Arab

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citizen, Omar Sawaf, his mother's name is Mayada, born in 1984 as of October 18, 2006 who is wanted by the judicial authorities in the United States of America for committing a murder.

The incoming file of the restoration from the Foreign Ministry, the Consular Directorate under the number 137 dated October 12, 2005 and registered in the register office of the Criminal Hand-over Committee number 575 for the year 2005.

Since the wanted person is holding the Arab-Syrian citizenship and there is no judicial agreement between the Syrian Arab Republic and the United States of America and in accordance with the terms of Article No. 20 of the general penalty law the following has been decided unanimously:

- ¶1. The refusal of the hand-over of the wanted named Omar Sawaf, born in 1984, his mother's name is Mayada, to the judicial authorities in the United States of America.
- ¶2. Forward all the documents and the hand-over file to the First Attorney General in Damascus in order to activate the general suit against the wanted person who is subject of the previous paragraph of this decision as a murder.
- ¶3. Inform the communication division.
- ¶4. Inform the First Attorney General in Damascus of the content of this resolution for duly implementation.

The resolution issued on 10-17-1427 Hijri, and November 9, 2006

CORBIN